

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

|  |   |          |
|--|---|----------|
| APPLICATION OF KENTUCKY RSA #2, INC. FOR A | ) |          |
| CERTIFICATE OF PUBLIC CONVENIENCE AND      | ) | CASE NO. |
| NECESSITY TO CONSTRUCT A CELL SITE LOCATED | ) | 95-146   |
| OFF U.S. HWY 93 ON POPLAR CREEK ROAD, NEAR | ) |          |
| KUTTAWA, LYON COUNTY, KENTUCKY (KENTUCKY   | ) |          |
| LAKE SITE)                                 | ) |          |

O R D E R

On April 19, 1995, Kentucky RSA #2, Inc. filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a cellular radio telecommunications system for Rural Service Area No. 2 ("RSA No. 2"). RSA No. 2 includes Caldwell, Crittenden, Hopkins, Livingston, Lyon, Trigg, Union and Webster counties. Kentucky RSA #2, Inc. has requested authorization to construct a cell site in Lyon County. Kentucky RSA #2, Inc. was previously granted authority to operate a cellular radio telecommunications system in RSA No. 2 in Case No. 93-276.<sup>1</sup>

The proposed cell site consists of a 300-foot or less self-supporting antenna tower to be located off Poplar Creek Road, approximately one mile north and west of Kuttawa, Lyon County,

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<sup>1</sup> Case No. 93-276, The Joint Application of Telephone and Data Systems, Inc., an Iowa Corporation, United States Cellular Corporation, a Delaware Corporation, and Mo-Tel Cellular Inc., a Georgia Corporation d/b/a Cellular One Western Kentucky Cellular Telephone Company and d/b/a Western Kentucky Cellular Telephone Company for Approval of the Merger of a Wholly-Owned Subsidiary of Telephone and Data Systems, Inc. and Mo-Tel Cellular, Inc. and Transfer of the Surviving Corporation to United States Cellular Corporation.

Kentucky ("the Kentucky Lake cell site"). The coordinates for the Kentucky Lake cell site are North Latitude 37° 03' 52" by West Longitude 88° 09' 27".

Kentucky RSA #2, Inc. has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Kentucky Lake cell site. Based upon the application, the design of the tower and foundation appears to meet the criteria of the Building Officials and Code Administrators International National Building Code with reference to earthquakes, winds, and tornadoes.

Pursuant to KRS 100.324(1), the Kentucky Lake cell site's construction is exempt from local zoning ordinances; however, Kentucky RSA #2, Inc. notified the Lyon County Judge/Executive and the joint Eddyville-Kuttawa-Lyon County Planning Commission of the pending construction. Kentucky RSA #2, Inc. has filed applications with and received approvals from the Federal Aviation Administration and the Kentucky Airport Zoning Commission for the construction and operation of the Kentucky Lake cell site.

Kentucky RSA #2, Inc. has filed notices verifying that each person who owns property or who resides within 500 feet of the Kentucky Lake cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners or residents of their right to intervene. On April 14, 1995, Jay Burns wrote the Commission and raised several points. On May 12, 1995, the Commission ordered Kentucky RSA #2, Inc. to respond to Mr. Burns's inquiry and informed him of his right to

intervene. On May 17, 1995, the Commission received a letter of release from Mr. Burns, withdrawing any opposition. To date, no intervention requests have been received.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, Kentucky RSA #2, Inc. should notify the Commission if it does not use this antenna tower to provide cellular radio telecommunications services in the manner set out in its application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused antenna tower, which should be observed by Kentucky RSA #2, Inc.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Kentucky RSA #2, Inc. should be granted a Certificate of Public Convenience and Necessity to construct and operate the Kentucky Lake cell site in RSA No. 2 under its previously approved tariff.

IT IS THEREFORE ORDERED that:

1. Kentucky RSA #2, Inc. be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate the Kentucky Lake cell site.


2. Kentucky RSA #2, Inc. shall immediately notify the Commission in writing, if, after the antenna tower is built and

utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 2nd day of June, 1995.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director